Zoning Code Rewrite Task Force and Stakeholder Comments

Source	#	Page/Section	Comment	Suggested Action	Final Action
Member Cheney	1	General Comment	When cutting and pasting these comments into the comment matrix, please include all underlining, bold text and items in italics. I desire to have these comments be of record exactly as provided herein.		
	2	General Comment	If the goal truly is to create a developer friendly, Zoning Code that attracts, rather than dissuades, economic development, there are numerous items in the draft code that are **problematic** and need to be toned down and is some cases removed from the Zoning Code. Those items include sections on: Construction Materials and Waste Management Plan, Adequate Public Facilities, Landscaping, Performance Standards and Sustainable Development Incentive Program. We discussed in the 9-25-13 Task Force meeting that some of these items (Construction Materials and Waste Management Plan, Performance Standards and Sustainable Development / Green Building Incentive Program) be placed in Guidelines outside of the Zoning Code, so that there is flexibility to make ongoing adjustments on what is or isn't working. Again, at the 9-25-13 meeting, the Task Force asked that the Landscaping section be toned back and/or reduced and that the Adequate Public Facilities section be removed all together (preferred); or be more similar to the City of Tempe Code, rather than Queen Creek's. **Please justify why several of the recommendations of the Task Force were ignored.** In addition to the items that belong in Guidelines, rather than in the Zoning code, why aren't the Task Force members, the Development Community and the Stakeholders being allowed to have their comments heard and addressed on this 'draft' zoning code before it moves forward for Public Hearings and P&Z Commission and Council action? Addressing the problem areas now and working through them before the Zoning Code is adopted is incredibly important and should have the highest priority. **As a Task Force Steering Committee member and a member of the Development Community, I am extremely concerned that the Zoning Code is now being rushed to approval without being fully vetted by the Task Force, as well as the Development Community. Please also see further discussion on these items below.**		
	3	General Comment	**I am not comfortable with the approved hard zoning that exists with the PAD Overlays going away and/or being replaced with the new zoning designations, upon adoption of the new code and zoning map and without notification and written approval from the property owner. I would much rather see the existing approved zoning districts survive the adoption of the new code and be reflected that way on the zoning map. If a property owner desires to rezone, the owner would need to apply for one of the new zoning districts. In the case of a PAD Overlay, only the hard zoned parcel that the property owner is applying to rezone would require one of the new zone districts and the remainder of the zoned parcels within the PAD Overlay would remain the same, as well, as the PAD overlay. Going this route would minimize confusion and interpretation issues and would eliminate many of the problematic issues identified in the rest of these comments. Can we please have this subject as a discussion item at our next Task Force meeting?** Below is how Pinal County addressed the retention of existing zoned properties in their 2012 Zoning Code Rewrite.		
		continuation of above comment	***Pinal County 2012 Zoning Code on Retention of Existing Zoning Districts and PAD Overlay Districts*** *Section 2.15.010 - Retention of zoning districts existing before February 18, 2012. All properties within the unincorporated area of the county and under the county's jurisdiction shall retain the zoning district classifications that exist on the properties before February 18, 2012, subject to the stipulations, conditions, plans and/or schedule for development, if any, that were part of the zoning approval until a rezoning is requested and approved.* *Section 2.15.020 - Rezoning and planned area development (PAD) overlay district applications. A complete rezoning application or PAD overlay district application for a zoning district classification listed that has been filed before February 18, 2012, may proceed through the rezoning process and/or the PAD process set forth without any change to zoning district classifications. Any complete rezoning or PAD overlay district application filed on or after February 18, 2012, must be to one of the new zoning district classifications.*		
		Draft Zoning Map dated 2-12-14	There are major issues with the draft Zoning Map. As an example, three(3) of the four (4) RA (Rural Agricultural) areas and the north portion of the fourth (4th) RA area (Neely property) identified on the Draft Zoning Map are actually currently zoned GR (General Rural). The equivalent new zoning code district is still GR (General Rural), rather than RA (Rural Agricultural). Is the change to RA, rather than GR, deliberate or an oversight? If deliberate please justify the zone change from GR to RA, rather than GR to GR. There are several other properties identified on the draft Zoning Map where the proposed zone districts are not equivalent to the existing zoning on the properties. Another example is the area along the MCG Hwy west of Porter Rd that is currently zoned CI-1 Light Industry and Warehouse with PAD overlay (Homestead Village South and the zoning for that same area is now proposed as SC Shopping Center. What happened to the PAD overlay? The corresponding/equivalent new zone district to the existing zone CI-1 district is LI Light Industrial, rather than SC Shopping Center. Similarly, the parcels immediately east of Porter Road within the same Homestead Village South PAD are currently zoned CI-2 Industrial with PAD overlay and are depicted on the draft Zoning Map as LI Light Industrial. Wouldn't the more appropriate and corresponding zone district for this area east of Porter Rd be GI General Industrial or perhaps, and my preference, the label on the draft Zoning Map should be PAD wherever there are PAD Overlays and the PAD designation should cover the entire PAD overlay land area, including the commercial and industrial parcels. If the intent is to rezone these various properties and remove the PAD overlay with the adoption of the new Zoning Code and Zoning Map, have the property owners been properly notified of the zone change per ARS 9-462.01E and/or 9-462.04A.3? The Rules of Transition 101.06 indicate that properties zoned with a PAD overlay prior to the effective date of the new Zoning Code shall be developed in accordance with the approved zoning PAD overlay. Hence, there seems to be a conflict. Further, Article 207.03 indicates that all existing PADs will be designated as PAD followed by a number or the name of the PAD. The draft Zoning Map does not identify the PAD name or number. **I am not comfortable with the approved hard zoning that exists with the PAD Overlays going away and/or being replaced with the new zoning designations, upon adoption of the new code and zoning map and without notification and written approval from the property owner.**		

		Art. 102.02 & Draft Zoning Map dated 2-12-14 / pg 1-12 & 1-13	A large number of properties within the City's Planning Area received zoning approval prior to the adoption of the General Plan in November 2006. In some instances, the Land Use Classifications depicted on the General Plan Land Use Map are not consistent with the earlier approved hard Zoning. As example, there are several properties along both sides of the MCG Hwy, where the general plan land use is identified as E Employment/Industrial when in fact the hard zoning approved for the same property is CR-3 Residential with a PAD overlay. Table 102.01 lists the new Zoning Districts and provides the corresponding General Plan Land Use Designation. Per this Table the General Plan "Employment/Industrial" land use designation corresponds to the new GI General Industrial zoning district. To further complicate this matter, the draft Zoning Map now depicts these same areas as PAD without any reference to the approved underlying hard zoning (CR-2 & CR-3). These discrepancies will cause confusion, interpretation issues and potential conflicts in the future. **What can be done now in this new Code to eliminate these discrepancies and hence, minimize conflicts in the future? Can we please have this subject as a discussion item at our next Task Force meeting?**		
		Draft Zoning Map dated 2-12-14	An area (133 acres) south of the City owned City Hall property and the City owned property (145 acres) were rezoned in November 2006 from GR to CR-3 with PAD overlay (See attached Ord. 06-16). The PAD was called Neely Estates. The City 145 acres was rezoned in 2011 (Ord. 11-07) from CR-3 Single Family Residential to TR Transitional, but the remaining 133 acres of the Neely Estates kept the CR-3 PAD zone status (see attached staff report 7-11-11. Hence, the 133-acre parcel immediately south of the City owned property is currently zoned CR-3 Residential PAD and not RA Rural Agricultural. Is it the City's intent to rezone this 133 acres with the adoption of the new Zoning Code and if so, has the property owner been notified of the rezone in compliance with ARS 9-462.01E and/or 9-462.04A.3.		
		Draft Zoning Map dated 2-12-14 & Art. 207 PAD District / pg 2-56 & 2-57	Upon adoption of the Zoning Code the PAD designation will be a zoning district, rather than an overlay district. Will this apply to projects that have existing hard zoning with a PAD overlay? If so, clarification language is needed. The term "Planned Development" is used several times in the document and is referenced at the bottom of the Zoning District comparison chart. However, the proposed zoning district is a Planned Area Development, rather than a Planned Development. Please correct.		
		Art. 102.01 / pg 1-11	Table 102.01 Base Zoning Districts - Last row on the Table - should this be the Planned Area Development District, rather than a Planned Development?		
		Art. 101.06	**Rules of Transition** - This is the first time the Task Force has seen the language on rules of transition. The Rules of Transition as they are currently drafted are onerous and will cause huge negative impacts to the development community. I have repeatedly asked in the Task Force meetings over the past 9 to 10 months, what will happen to the existing zoned properties, especially the larger zoned projects with the PAD Overlays. I was told that those projects would be grandfathered. That apparently is not the case. Expirations with no extensions simply do not work. There are legitimate reasons why projects is Maricopa have been at a standstill for the last five to six years and have not made any "meaningful progress". We just experienced a devastating recession and recovery is still in process. Why would the City of Maricopa want to impose such an onerous regulation and financial hardship that in essence forces the expiration of prior approved Preliminary Plats, Final Plats, Site Plans and Building Permits, especially in the depressed market we have been experiencing? By the time a property obtains these levels of approvals in the entitlement process, huge dollar amounts have been expended to get to those approvals. It does not make sense that these approvals would expire without any ability to request and receive extensions. Please see more specific comments below. **As a Task Force member I cannot support the Rules of Transition as they are currently written. Can we please have this as a discussion item at our next Task Force meeting?**		
		Art. 101.06 / pg 1-8	Clarification needs to be provided on a number of the items in this section. For instance, item B4 Preliminary Subdivision Plat Approved Prior to Effective Date of Zoning Code, if a final plat is filed before the expiration of the preliminary plat does that mean the preliminary plat never expires? There are a number of Maricopa residential projects where final plats and improvement plans were filed with the City, but were not approved by Council and/or recorded because of the downturn of the housing market. In those cases, preliminary plat extensions were required even though final plats and plans were filed with the City. Item B4 seems to indicate that once a final plat is filed with the City that the Preliminary plat does not expire. If this is not the case and a preliminary plat extension is required, why would we not want to allow the extension? Please explain the intent of "No Extension"? This same concern would apply to items B3, B5, B6, C1.		
		pg 1-8 & 1-9	In item D Development of Projects with an Existing Planned Area Development Overlay, please provide clarification on the meaning of "*the development standards and requirements of this (the new) Zoning Code shall apply only if not specifically modified by the PAD Code* ". Please provide specific examples of this, so the Task Force can understand what standards and requirements of the new Zoning Code would apply to existing zoned properties with PAD overlays. The word "CODE" at the end of the sentence does not make sense. Should the word "Overlay" be used instead of "Code"? The last sentence reads "City Council may rescind or amend prior approved Zoning or PADs if no meaningful progress is made to develop in accordance with the approval in a timely manner." Please explain why this is statement is necessary? Who determines "meaningful progress" and "in a timely manner"? Please provide additional language to clarify this section. The State Statutes (ARS 9-462.01E.) identifies when and how a City Council may rescind or amend the approved zoning on a property. Why not just refer to the State Statute such that this sentence would read: "City Council may rescind or amend prior approved Zoning or PADs per ARS 9-462.01E" or include the entire Statute, which reads as follows:		
		ARS 9-462.01E.	***E. The legislative body may approve a change of zone conditioned upon a schedule for development of the specific use or uses for which rezoning is requested. If at the expiration of this period the property has not been improved for the use for which it was conditionally approved, the legislative body, after notification by certified mail to the owner and applicant who requested the rezoning, shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.***		

		pg 1-9	Item E. Planning Applications Filed After the Effective Date of the Zoning Code reads: "All applications for Rezoning, Development Review Permits, Use Permits, Planned Area Development (PAD) zoning or PAD Plan approval, and preliminary subdivision plats filed after the effective date of this Zoning Code, including modifications and amendments, shall conform to the provisions of this Code. **Additional clarification of the meaning of this provision is needed.** For example, if a property with existing hard zoning and a PAD overlay requests a rezone of several parcels within the PAD from the Transitional (TR) zone district to the new Neighborhood Mixed Use (MU-N) zone district, would the entire PAD then be required to conform to the new Zoning Code or just the parcels associated with the zone change from TR to MU-N? Why are preliminary subdivision plats required to conform to the provisions of the new Zoning Code if the zoning w/ PAD overlay was approved before the adoption of the new Zoning Code? Please explain why this is necessary. What is the difference between PAD Zoning and PAD Plan? What if an existing PAD overlay requires a modification such as an adjustment to a roadway alignment or a modification to a zoning stipulation, how would those modifications conform to the new Code? Or what if a PAD has an approved preliminary subdivision plat and during the final plat and improvement plan design process a modification to the lot count is required, say a reduction, how would a lot count modification conform to the new Code? **Again, can we please have this section Rules of Transition as a discussion item at our next Task Force meeting?**		
		Art. 103.03 / pg 1-15	Rules of Measurement - Comments will be provided next week		
103.03 Rules of Measurement		Art. 201 / pg 2-3	Rural Districts - Purpose Item A. Please provide a definition for "*resource conservation areas* ". Item D. *Discourage premature development and limit development in rural areas until suitable infrastructure and subarea plans are in place to facilitate development in a manner consistent with the General Plan.* Who determines "*premature development* " and what does "*limit development in rural areas until suitable infrastructure and subarea plans are in place to facilitate development* " mean? Please define *subarea plan* . I have reviewed the Maricopa General Plan Land Use Element Goals and Objectives and nowhere does it include this kind of language. Why can't this simply say "Develop in a manner consistent with the General Plan"?		
		Art 202 / pg 2-8	Residential Districts - Purpose Item A. *Provide for a variety of residential development to suit the spectrum of individual lifestyles and space needs and ensure the continued availability of the range of housing opportunities necessary to meet the needs of all segments of the community consistent with the General Plan.* Wow! Please explain what this means and how this will be determined. For example, who determines if a residential development "*suits*" the *spectrum of individual lifestyles and space needs;* the developer and/or homebuilder who understands the home buyer market or City staff? And how does anyone "*ensure*" *the continued availability of the range of housing opportunities necessary to meet the needs of all segments of the community?* Again, the General Plan does not have this language. Why can't the Purpose simply restate some of the goals and objectives from the General Plan Residential Land Use Element? Item D. Where did the statement "*upgrade the quality of multi-unit housing* " come from? Does Maricopa currently have multi-unit housing the needs upgrading?		
		Art 202.02 / pg 2-10	Table 202.02 under Residential (RS) - *Guest Quarters and Granny Flats P(2) - Permitted in detached garages only* . Why only in a detached garage? this does not match the General Terms for Use Classifications, pg 6-4, where it states that a second unit may be within the primary structure or in a separate structure on the lot. Please correct. We discussed this at a task force meeting. Lennar Homes has a product they call Next Generation. Following is an excerpt from an article on this home: "*Of the approximately 312 million people living in America today, it is estimated that 49 million people are living with an extended family member and as the baby boomer generation gets older, it is widely expected that the number of people who have an extended family member living with them will continue to rise. When faced with choices related to caring for an elderly parent, let's face it: having grandma move into your daughter's bottom bunk isn't high on anyone's list of options. But at least one home builder is providing a revolutionary idea when building homes with an area designed to accommodate an expanded family – Lennar Homes. Lennar Homes has recently introduced the Next Gen Casita option to some of its communities in the Maricopa county area, and with the number of senior citizens who already call Arizona home, don't be surprised to see many other home builders attempt to copy this idea.*" Why would the City of Maricopa want to prohibit guest or family quarters inside the home? By the way, my son and daughter-in-law are in the process of buying one of Lennar's Next Gen Homes. Please visit the Lennar website to view a video of the home or the floor plan. It is extremely well done. Why are '*Hospital*' *a* nd '*Clinic* ' indented and in italics on the Table? These uses are not a subset of Education Facilities. Why is 'Convenience Market' a subset of Commercial Entertainment and Recreation when it is a subset of Food and Beverage Sales? Please correct these items on the Table.		
		202.03 / pg 2-13	Item B. RS-5 Districts Open Space, Lot Size Variation Allowed. "*Open Space for projects with lots less than 7,000 square foot lot average shall be a minimum of 22 percent of the total net acres* . RS-5 minimum lot area is 5,000 Sq Ft. What is the 7,000 sq ft criteria doing in the RS-5 district? This does not make sense and is in conflict with the subdivision code, see Table 1 (MPD and PAD) Sec. 14-5-3. Per the Subdivision Code Table 1 Open space is 20% for densities of 3.2 to 4.0 du/ac. A 60' x 115' lot = 6,900 sq ft and the typical density for a 60' wide lot subdivision is 3.2 to 3.4 du/ac. A 50' x 115' lot = 5,750 sq ft and the typical density is 3.4 to 3.9 du/ac. Hence the Open Space should be 20% for both of these examples, both of which are less than 7,000 sq ft. Why is there now a 22% Open Space requirement in the zoning code? What is the justification for this and why introduce a requirement that conflicts with the Subdivision Code? *Up to 25 percent of the lots in a subdivision may be smaller than the minimum lot size (5,000 sq ft), with a minimum width of 45 feet. No lot shall be less than 4,500 square feet.*" A 45' x 115' lot = 5,175 sq ft. It is rare to have a conventional lot, even a small lot, with less than 115 feet of depth. Hence, where does the 25% limitation come in? If this provision is intended for non-conventional auto cluster and "Z" Lot type developments, the 25% may be problematic? However, keep in mind a non-conventional residential development has a much higher open space requirement of 25% to 30% and therefore the trade off for the smaller lot is the additional open space. Additionally, the word "subdivision" in this context is not the same as in the definition section of the code. Please make the distinction here of what is meant by "subdivision". Does it mean a single final platted residential parcel or all of the residential parcels in a phase of a PAD or MPD of the Subdivision Code.		
		202.03 / pg 2-16	Table 202.03.I. Clustered Development Standards - 60% lot coverage on a small lot cluster development is too low. Often the lots are very small and the house occupies almost the entire lot. The only yard area is typically a decent size courtyard or patio Everything outside of the auto cluster (lots and common driveway) is open space with interconnecting trails, amenities and very nice landscaping. Many consumers like this product because there in no yard maintenance, lower land and improvements costs, which equals lower home price, and access to open space and trails right outside the door. Lot coverage on these type of small lot auto clusters is in the range of 65% to 75%.		

		202.03 / pg 2-18	Clustered Development Item I.7.c. Entries and Porches - Requiring that 35% of the homes must include entries and porches extending along 50% of the homes front, excluding the width of garages needs some clarification. This may work for some larger lot cluster developments, but it will not work for a certain type of auto-cluster product where 6 to 8 homes share a common private driveway/courtyard to access the garages. In this type of cluster the garage occupies almost the entire face of the home and if that is considered the front of the home, the 35% could never be met. However, if the opposite end of the lot is considered the front of the house for this provision, then the 35% of the home front having a entries, porches and/or patio/ courtyard would work. Please revise the text to include this type of auto-cluster product.		
		202.04 / pg -22	Development Standards - High Density Residential Item E. 1 & 2. - Private outdoor open space raises the rental price by $150 to $250/month. Many individuals cannot afford this additional monthly cost, especially those on the lower income spectrum. Why would Maricopa want to require this for every single unit in an apartment complex? This was discussed at a task force meeting and the suggestion was to require that 33% of the units have private outdoor open space and that the minimum required open space be calculated on a per bedroom basis, such that a one-bedroom unit would have 60 SF, a 2 bedroom 120 SF and 3 bedroom 180 SF. The comment matrix response to this suggestion was "Great points, will review peer communities and can provide detail based on number of bedrooms and more flexibility". Why then was this ignored?		
		Art. 206 / pg 2-52 & Draft Zoning Map	Public and Institutional Districts - The name of this use category is deceiving in that it implies that is covers properties that are publically owned. However, it also includes privately owned open space. Suggest revising the title. Per this section no use is permitted in the OS-C (Conservation Open Space) district, except trails, and there are no development standards. Where are the Use Classifications/descriptions in Article 601 for these Open Space Districts? The Article 602 Definitions do not match up to the zone district designation, which will cause confusion and misinterpretations in the future. For instance does the zone district OS-PR (Parks & Recreation) include both public and private owned recreation parks or are the Private Owned Parks included in the OS-POS category? Please add more clarification in Articles 206, 601 and 602. There are several projects with existing Zoning & PAD Overlays, including built-out and partially built-out projects, that **do not** have any of the zoning districts described in this section, because they currently do not exist. The draft Zoning Map now depicts these new districts, PI, OS-C and OS-PR, on areas that currently have either residential (CR-2, CR-3, etc.) or transitional (TR) hard zoning and some of the areas labeled as OS-PR are actually privately owned OS-POS. Is the intent that with the adoption of the code and map that these areas will be rezoned to the new PI, OS-PR,OS-POS and OS-C districts? If so, I am adamantly opposed to this. This could be considered a 'taking' and warrant a claim of diminution of value. Further, the State Statues (ARS 9-962.04 I.) prohibits the rezoning of land for Open Space unless the owner of the land consents to the rezoning in writing. **Can we please have this as a discussion item at our next Task Force meeting?**		
		Art. 207 / pg 2-57	Planned Area Development District - Please see applicable General comment above. For existing zoned properties with a PAD overlay what portions of the PAD narrative and exhibits is considered to be the PAD Plan? Please include this in definitions. What is a **valid PAD Plan?** Please define. In 207.05 the Article referenced should be Article 510 and not 509. There are several other incorrect references like this through out the document. I have a major concern about how the existing zoned properties with PAD overlays are being swept under the rug with this rewrite. This is not acceptable and as a Task Force member I cannot support this. **Can we please have this as a discussion item at our next Task Force meeting?**		
		Art. 301 / pg 3-3	MP Master Plan Required Overlay District - Please identify where and when this overlay district would be applied and required and give examples? I have *major concerns* regarding this 'Required' Overlay District. What is meant by **'Required'**? What do the 301.01 Purposes B., C. and D. mean? As example, Item 301.01.C. states "*Avoid premature or inappropriate development that would result in incompatible uses or create public service demands exceeding the capacity of existing or planned facilities;".* Who determines these items? Is this Master Plan Required Overlay District meant to imply "growth management" or "growth boundaries"? **In 301.06 Required Plan and Materials please explain/justify the reason for requiring items F. & G. at the time of zoning and explain why a second opinion from a City-approved engineer may be required at the discretion of the City Engineer?** If an Arizona registered professional engineer prepares the report and it is good quality and covers the required elements, why would the City Engineer require a second opinion from a City-approved engineer? If the report lacks the required elements or if clarification or edits are required the report should be sent back to the preparing engineer with the City comments and the engineer should address those comments. Again, why would the City Engineer require a second opinion from a City-approved engineer? **Please provide justification why this requirement should stay in the zoning code.** The term **'site plan'** is used in this section as well as other sections of the code. Please provide a definition of what this means, as it could be interpreted several completely different ways. This will eliminate the need for interpretations in the future.		
		Art 301.04 / pg 3-4	Last sentence - Please explain what is meant by "No subdivision of land is permitted, except in accord with an approved Master Plan." What kind of subdivision are you prohibiting in a "required" Master Plan?		
		Art. 301.10 / pg 3-6	Item A. Expiration of a Master Plan - Master Plan shall become void two years following the date of approval. By state statute zoning can only be rescinded by City Council by the same process that it was adopted, i.e. written notification, public hearing council action, etc. Please correct this so it is in line with the Statute or refer to the Statute as ARS 9-462.01E.		
		Art. 401.05 / pg 4-9	Construction Material and Waste Management Plan - Why make this mandatory? Why not encourage construction entities to do this, rather than dictate? The majority of homebuilders and most apartment and commercial construction companies are already doing this at some level on their own, so why not go with the 'light touch' and encourage as Guidelines? My notes from the Sept 25th meeting was that the Task Force requested that this be removed from the Zoning Code and developed as Guidelines instead.		
		Article 402 & 602 Terms & Definitions/pg 6-26	Adequate Public Facility - related terms - Please refer to the 9-19-13 Module 3 Comment Matrix on this subject, including significant comments from other stakeholders, and the responses to those comments. The State Statutes (9-463.05 Development Fees), ADWR, ACC, ADEQ, and ADRE (via Public Report) already regulate that a project must have adequate public facilities. Where in ARS 9-462.01 covering zoning and land use does it allow a city the authority to require the determination of adequate public facilities prior to granting land use/zoning approval (see Art. 402.02A)? We discussed this section at some length at the 9-25-13 task force meeting and my notes reflect that the Task Force requested that the Article on "Adequate Public Facitities" be removed or at a minimum that staff remove the Queen Creek code and instead perhaps incorporate applicable/reasonable portions of Tempe's code on Public Infrastructure. It appears that the Tempe code was copied almost verbatim. Further, while the Tempe code was cut and pasted into this Article 402, the Definitions in Article 602.02 for Adequate Public Facilities still corresponds to the Queen Creek Code and hence several definitions must be removed and/or revised. I do not think that Maricopa's zoning code should include requirements/provisions for Adequate Public Facilities, since that subject matter is already covered in the State Statutes and governed by the above mentioned State agencies. **Please have this as a discussion item at our next Task Force meeting.**		
		Art. 402.03 / pg 4-24	Item L. Private Streets - Please provide justification why the City needs a 'warranty' on a private street that will not be owned or maintained by the City?		
		Art. 402.04 / pg 4-25	Item C. Underground Facilities - Not all utility easements are 'exclusive'. Gas, electrical, telephone and cable are typically placed in an 8' public utility easement. Please insert the word 'public' so that it reads …within **public or** exclusive easements… In addition, water, sewer and effluent lines are most often installed within the street ROW, sewer and effluent lines under the pavement and water under the pavement or behind the curb and sidewalk. Hence, 'public ROW' should be added to the sentence as well.		
		Art. 404 / pg 4-30	Landscaping - The non-residential street right-of-way planting requirements in Table 404.04.A.4. were not toned back from the Module 3 draft. A comparison of six other Arizona cities identified that the Maricopa standards were excessive, i.e. 1 tree and 3 to 4 shrubs per 25 to 30 feet was the norm, while the proposed in Maricopa is 1 tree and 6 shrubs per 20 feet. The current Subdivision Ordinance 14-6-5 for Arterial and Collector Streets requires 1 tree and 3 shrubs per 30 feet. In addition, the minimum tree box and shrub gallon sizes are also excessive compared to other cities. The landscape requirements for parking lots does not appear to have been reduced at all. Please justify why the proposed landscape requirements, which are excessive compared to other cities and contrary to the goal of conservation of water, are necessary? **Please have this as a discussion item at our next Task Force meeting.**		
		Art. 405 / pg 4-37	Lighting Standards - Have the proposed lighting standards been reviewed and approved by ED3?		
		Art. 408 / pg 4-67	Performance Standards - Do performance standards belong in the Zoning Code or in a separate section of the City Code?		
		Art. 410 / pg 4-100	Standards for Specific Uses - have not had a chance to review will provide comments as soon as reviewed		
		Art. 411 / pg 4-129	Sustainable Development Incentive Program - My notes from the Task Force meeting was that it was premature to include this Green-Building Incentive Program in the Zoning Code. The thought was that it would be better to develop the Program in a Guideline. Why is this still in the Code?		
		Art. 500	All Tables in Article 500 - Why are the Overlay Districts excluded from these Tables? Please include.		

		Art 501.02 / pg 5-4	Item 2.b. - *Zoning Code Map or Text Amendments. The City Council shall have the power to initiate applications without owner authorizations for either Zoning Code Map or text amendments.* This seems to imply that the City could also approve Zoning Code Map amendments, effectively rezoning an owners property, without notification or authorization. There are some circumstances where are owner written approval is required, see ARS 9-462.04.I. which states: "... a parcel of land shall not be rezoned for open space, recreation, conservation or agricultural unless the owner of the land consents to the rezoning in writing."		
		Art. 502.02 / p 5-15	Item B.3. Claim for Diminution of Value - I strongly disagree that all applications must include a waiver of Claims for Diminution of Value. Requiring the Waiver defeats the intent of the State Statute.		
		Art. 502.05 / pg 5-18	Neighborhood Meetings and Notifications - *Item B. Applicability- A neighborhood meeting is required for the following types of applications.....* The current Zoning Code on citizen participation/neighborhood meetings requires that this be done on every application that requires a public hearing. The State Statute 962.03 requires the citizen review on all zoning and specific plan applications. Why is the new code now requiring it for every application? *Please remove the Neighborhood meeting requirement if it is no required by State Statute, i.e. from Major Development Review and Variances.*		
		Art. 502.05 / pg 5-19	Item E. 1. *Neighborhood notice and meeting materials must be submitted with the project application.* Why? Currently, the neighborhood notice & meeting materials are submitted, once staff indicates that the application materials are ready for approval. Often times the application supporting materials and reports are revised before staff is ready to approve. Hence, requiring the neighborhood notice and meeting materials at the time of application, especially for large or complicated projects, is premature as both the notice and the materials would require revising as the application materials are revised. **Please change this onerous requirement.**		
		Art. 502.05 / pg 5-20	Item F.4. Notification Requirements - *Electronic Notice* - The second sentence states that an electronic notice may be substituted for an **advertised notice** and then the third sentence indicates that electronic notice may be substituted for a **mailed notice**. Which is it or is it both? Please clarify.		
		Art. 502.06 / pg 5-21	Public Notification - Item C.5. Electronic Notice - Same comment as immediately above. If the Public Notification for the public hearing is provided in the Neighborhood Meeting Notification, is it necessary to send a second Public Notification for the same public hearing? This 502.06 seems to imply that. Please review the requirements for both the Neighborhood Meetings and Notification and the Public Notification and consolidate or provide text that clarifies when, if ever, two notifications are required for the same public hearing.		
		Art. 502.06 / pg 5-25	Table 502.06 Notification Requirements - Why Aren't Overlay Districts included on the Table? Please include. For Minor Development Review Permits, under the 'Applicable Projects' column, shouldn't the bullet point on Facade Alterations read; "Facade Alterations **less** than 10% of surface area", rather than "**more**"? Please also see specific comments to each type of permit below.		
		Art 502.10 / pg 5-28	Item A. Date of Action - The second part of the first sentence reads "... or if no public hearing is required, within the time period required by this Code" but the second sentences says "the date of action shall be the date of the hearing". Please define in the last sentence the *date of action* when there is no public hearing.		
		At. 502.11 / pg 5-29	Conditions of Approval, Item A. Authority - The second part of the first sentence states "... or to *fulfill an identified need for public services* ." Please include a definition of necessary 'public services' in the definitions Article 602 and please make sure that the definition is consistent with the State Statute ARS 9-463.05,T.7. Additionally, in Item B. Contract for Conditions - Please specify when a land use approval requires a recorded "**Contract** that includes the **Conditions of Approval**" and when a land use approval does not require a recorded **Contract**. **I need to understand when this would be applicable and when it would not and reserve the ability to comment on the provision once the applicability is defined.** A **Contract** used in this context is more often referred to as a **Development Agreement**. The term **Development Agreement** is defined in the Definitions Article 602, but **Contract** is not. Please use consistent terminology throughout the document to avoid confusion and unnecessary Zoning Administrator Interpretations. Suggest using the more common terminology of **Development Agreement**. Item E. Modification or Removal of Conditions - States: "*Modification or removal of conditions of approval may be sought on appeal or as a new application . Such proposals shall be processed through the same procedure that was used to impose the conditions."* In the context of this sentence what does **sought on appeal** mean? Please clarify. Does **new application** mean a new zoning application? Why? **An existing Stipulation which, because of circumstances that are beyond the owners control or perhaps because of a change in the development policy of the City, needs to be modified should not constitute a New Application, but if significant should be considered a Major Amendment and should follow the notification and public hearing process. There should be a different application fee associated with a Major and Minor Zoning Amendment as compared to a New Zoning application.** Please refer to ARS 9-462.04. Why would City Council want to restrict themselves in this way by requiring a modification of a stipulation to be a New Application? Please also see comment below on Minor and Major Zoning Amendments.		
		502.12 & 502.14 / pg 5-30 & 5-31	502.12. Effective Dates Item A. Expiration Permit & 502.14 Revocation of Permits - If these two sections are specifically addressing the expiration and/or revocation of "**Permits**" and not the expiration and/or revocation of approved "**Zoning**", I believe I am okay with it, except that 502.12 A. end of last sentence, should also include "**or the time period as approved by the original decision making body.**" If however, expiration or revocation of a permit **implies or means that the Zoning reverts to the prior zoning on the property**, **I adamantly oppose this provision.** Per ARS 9-462.01 E. *The legislative body may approve a change of zone conditioned upon a schedule for development of the specific use or uses for which rezoning is requested. If at the expiration of this period the property has not been improved for the use for which it was conditionally approved, the legislative body, after notification by certified mail to the owner and applicant who requested the rezoning, shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.* **Hence, the expiration or revocation of a permit does not revert or revoke the zoning on a property.**		

		502.13 / pg 5-30	Modification - Again, why are we changing terminology, which just causes confusion. Please use the word "Amendment" rather than "Modification". How Amendments are defined are one of the most significant provisions in a Zoning Code. Hence, if Maricopa wants to attract economic development this provision should be as flexible and developer friendly as possible, while remaining in compliance with the State Statutes. Minor Amendments are approved administratively by the Zoning Administrator and Major Amendments are required to go back through the notification and public hearing process. No where in the State Statutes (ARS 9-462) does it require that a Major Amendment be a "New Zoning Application", which requires full Zoning application fees and suggests a complete redo of the Zoning case. Following is what ARS 9-462.04.A.4. says regarding zoning Amendments: "*In proceedings involving one or more of the following proposed changes or related series of changes in the standards governing land uses, notice shall be provided in the manner prescribed by paragraph 5* (paragraph 5 requires the notification and public hearing process): *(a) A ten per cent or more increase or decrease in the number of square feet or units that may be developed.* *(b) A ten per cent or more increase or reduction in the allowable height of buildings.* *(c) An increase or reduction in the allowable number of stories of buildings.* *(d) A ten per cent or more increase or decrease in setback or open space requirements.* *(e) An increase or reduction in permitted uses.* " I have investigated how other municipalities in the Valley have defined Minor vs. Major Zoning Amendments. Amendments are most often requested on Master Planned Communities (MPC) or Planned Area Developments (PAD) where conditions occur after zoning is approved that requires an Amendment, such as an adjustment to a street or drainage channel alignment that then requires adjustment of the zoning boundaries. Developer friendly municipalities use some variation of the below listed parameters to define a Major Amendment. I respectfully request that the Maricopa Code include similar parameters. An Amendment will be deemed Major by the Zoning Administrator if it involves any one of the following: (1) A ten percent (10%) or more increase in the total number of approved dwelling units or gross leasable area (GLA) for the overall Planned Area Development (PAD) or Master Planned Community (MPC) from what was approved in the Zoning Case. (2) An increase of ten percent (10%) or more of the approved number of projected dwelling units or gross leasable area (GLA) for the zoned parcel as approved in the Zoning Case, if applicable. (3) A change in the overall PAD or MPC boundary. (4) A significant change to the boundary of one or more zoned parcels from that approved in the Zoning case, as determined by the Zoning Administrator. A change to an individual zoned parcel generally shall be deemed to be significant if it represents a ten percent (10%) or more increase or decrease to the gross area of the zoned parcel as approved in the Zoning Case. (5) Any change, which could have significant negative impact on areas adjoining the boundary of the PAD or MPC as determined by the Zoning Administrator. (6) Any change, which could significantly increase traffic impact on roadways adjacent or external to the PAD or MPC, as determined by the City Transportation Engineer. (7) Any significant revision of a Conditional of Approval as determined by the Zoning Administrator or the removal of a Condition of Approval. The Amendment will be deemed Minor, if the Zoning Administrator determines the Amendment does not meet the criteria established for Major Amendments. If it is determined that the Amendment request is Major, the request shall be processed in the manner set forth in Article 509. The application shall be considered a Major Amendment and shall not be treated as a New Zoning application, unless the request includes a rezone from one Zoning District to another.		
		Art. 502.14 / pg 5-31	Revocation of Permits - Does Revocation apply only to permits, i.e. Zoning, Administrative Use, Conditional Use, Temporary Use and Development Review (Site Plan Review) Permits and not Rezones? This section is not addressing revocation of approved Zoning, General Plan Amendments or PAD District, correct? Please provide clarification.		
		Art. 503 / pg 5-35	Zoning Permit - I do not understand why a Zoning Permit is necessary, if the use is permitted as-of-right. Is the Zoning Permit synonymous with the Zoning approval or is the Zoning Permit issued separately from the Zoning approval and is there a separate and additional fee required for the Zoning Permit from the Rezone application fee? Under the current zoning code please outline the process of zoning through site plan approval and subdivision preliminary plat approval and then identify when and how often in each of those processes a 'zoning permit' would be required? Please identify what an owner must provide in the way of support materials (502.02B.2.), beyond the materials that are required for Zoning approval, to obtain a Zoning Permit. A zoning permit is not required under the current process, hence why is it necessary under the new Zoning Code? Please identify the peer communities that require a Zoning Permit and those that do not. Please provide clarification and justification for this permit. I may have additional comments and questions, once clarification is provided. If zoned property is being used for Agricultural purposes (leased to a farmer) until entitlements are completed and development is ready to occur, does section 503.02 require a zoning permit to continue use of the land for farming or is the agricultural use grandfathered?		
		Art. 503.05 / pg 5-36	Exceptions - Based on the exceptions that are identified, please give examples of when a zoning permit would not be required.		

		Article 500	The Administration and Permits section of a Zoning Code is its heart and soul, its foundation. It communicates to the development community, if the Code is truly streamlined and user-friendly or if it is onerous and problematic. It either encourages or discourages the development community to come to Maricopa, to bring housing, new businesses, employment and industry, which all generate economic development. Having now read through the Administrative and Permits section of the draft Code, I have to say this is not at all the direction I thought the Zoning Code was going in. It has been represented that this new Code would be **streamlined** and **simplified** and that the regulations would have a **'light touch'**. Instead, this Administration and Permits section goes above and beyond what is required in the State Statutes and hence, **overregulates.** It creates layers of unnecessary applications, fees and permits. I may be completely wrong, but I think the current City Council wants this Code to be truly user-friendly and streamlined and wants it to encourage economic development in Maricopa, rather than discourage it. **Can the Task Force have this as a discussion item?**		
		Art. 504.04 / pg 5-38	Administrative Use Permits - Are both a Zoning Permit and an Administrative Use Permit required, as an example, in a Residential District for a Convenience Market or is just the Administrative Use Permit required? Please clarify.		
			I have not finalized my review of Articles 504 through 602. In addition, I have a few more comments for Articles 200 through 400, as well as comments to prepare on the various Tables. I have spent more than 50 hours reviewing and commenting on this Draft and I am not through. I need more time to review and comment. Please extend the 30-day public review period to allow more time for review, comments, revisions, edits and corrections.		
		Art. 504.05 / pg 5-39	Conditional Use Permit		
		Art. 504.08 / pg 5-41	Temporary Use Permit		
		Art 505.02 / pg 5-44	Development Review Permit Applicability - *The provisions of this section **may** apply to projects that do not require review under the Subdivision Code.* What is meant by "may"? This is worded funny and I am confused. Is a Development Review Permit required on a residential project that requires review under the Subdivision Code? Where there are conflicts between the Zoning Code and Subdivision Code the more restrictive regulation shall govern - this is just a excuse to not find the majority of conflicts and address them now prior to the Zoning Code approval. Are both a Zoning Permit and a Development Review (Site Plan) Permit required for a commercial zoned property? The last two sentences state: *"The Development Review Permit process is intended to replace the prior Zoning Code "Site Plan Review" procedures. Site Plan approval under the previous Code shall expire within one year of the adoption of this Code, or at a time specified as a condition of approval, whichever comes first."* Why are we changing the terminology of Site Plan to Development Review? Why not use "Site Plan", which is a term owners and developers are familiar with? Please justify why a prior approved "Site Plan" expires one year from adoption of the Code? Is an extension of an existing site plan allowed? Again, this is another provision that is not a 'light touch' and is very onerous to the land owner. I am not finished with review of this section.		
		Art 510/ pg 5-63	Planned Area Development District - Why are there two separate & different Purpose (207.01 & 510.01) statements for the PAD District? Items 5 c. 'site plan' (did you mean Land Plan?), e. Lighting Plan and f. Signage Program are not typically required elements for zoning. See also General comment above. **Can we have this item for discussion at the next Task Force meeting?**		
		Article 602 Definitions General Comment	**Definitions** - Please include definitions for the following - ***Site Plan and Site Plan Review*** (The **Development Review**, Major or Minor, now replaces the **Site Plan Review.** Why? The State Statutes defines the final approval of a nonresidential or multi-family development as an approved **Site Plan**. Changing the terminology just adds confusion? The only place I can find where this significant change in terminology, **Site Plan versus Development Review,** is discussed is on page 5-45. Please eliminate the confusion and call this **Site Plan Review & Site Plan Review Permit (Major & Minor)**, rather than **Development Review / Development Review Permit?** If the rest of the Task Force agrees with the term **Development Review**, then at minimum please include Site Plan/Site Plan Review and Development Review/Development Review Permit in the definitions (Article 602) and cross reference each. **Master Plan Required Overlay ....**		
		Art 601 Use Classifications/ pg 6-3	Rural and Agricultural Use Classifications - Small Scale ... less than 5 acres & Urban Ag... less than one half acre - Per my comments 52 and 53 of 6-19-13 comment matrix where I had suggested that we stay consistent with ADWR definitions and that the Small Scale should be not less than 10 acres and the Urban Ag. less than 1 acre - the responses were 'will do' and 'ok'. Is there a reason why these did not get changed?		
		pg 6-13	Live-Work - 'occupied and used by a single household' - does this mean that the owner of the property could not lease or rent out either the living or the work area to a tenant and that the live-work has to remain under the same ownership? The response to this question (#29) in the comment matrix of 7-18-13 was in part - 'It might make more sense to promote this type of development, but only allow separate sale for ground floor space to be used as commercial. Upper floors to be restricted for residential only for the time being.' Is there a reason why this was not addressed in the definition?		
		pg 6-19	Utilities, Major - Can you please add water treatment and wastewater treatment facilities?		
		pg 6-19	Utilities, Minor - Can you please add water booster/pump station and water wells?		
		pg 6-29	Area, net - Please identify where or when the term 'Area, net' is used in the Zoning Code.		
			Again, these are not the extent of my comments. I need more time.		